

## **IC 36-7-15.2**

### **Chapter 15.2. Economic Development Project Districts in Marion County**

#### **IC 36-7-15.2-1**

##### **Application of chapter**

Sec. 1. This chapter applies to each unit having a redevelopment commission under IC 36-7-15.1.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-2**

##### **Stagnant or deteriorating economic conditions**

Sec. 2. (a) Present economic conditions in certain areas of certain units are stagnant or deteriorating.

(b) Present economic conditions in such areas are beyond remedy and control by regulatory processes because of the substantial public financial commitments necessary to encourage significant increases in economic activities in such areas.

(c) Encouragement of economic development in these areas will:

(1) attract new businesses and encourage existing businesses to remain or expand;

(2) increase temporary and permanent employment opportunities and private sector investment;

(3) protect and increase state and local tax bases; and

(4) encourage overall economic growth in Indiana.

(d) Redevelopment and stimulation of economic development benefit the health and welfare of the people of Indiana, are public uses and purposes for which public money may be spent, and are of public utility and benefit.

(e) Economic development in such areas can be accomplished only by a coordinated effort of local and state governments.

(f) Redevelopment and economic development under this chapter or IC 36-7-15.1 constitute a local public improvement that provides special benefits to residents and taxpayers of the special taxing district established under IC 36-7-15.1.

(g) This chapter shall be liberally construed to carry out its purposes and to provide units with maximum flexibility to accomplish those purposes.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-3**

##### **"Commission" defined**

Sec. 3. As used in this chapter, "commission" has the meaning set forth in IC 36-7-15.1-3.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-4**

##### **"District" defined**

Sec. 4. As used in this chapter, "district" refers to an economic development project district established under this chapter.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-5**

##### **"Economic development project" defined**

Sec. 5. As used in this chapter, "economic development project" mean a project that:

- (1) accomplishes the purposes specified in section 10 of this chapter; and
- (2) involves an expenditure for a local public improvement.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-6**

##### **"Local public improvement" defined**

Sec. 6. As used in this chapter, "local public improvement" means any redevelopment project or purpose of a commission or a unit under this chapter or IC 36-7-15.1.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-7**

##### **"Remonstrance" defined**

Sec. 7. As used in this chapter, "remonstrance" refers to a written remonstrance delivered to a commission in accordance with section 12 of this chapter.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-8**

##### **Powers and duties**

Sec. 8. In addition to the powers and duties set forth in any other statute, a commission has the powers and duties set forth in this chapter.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-9**

##### **Assemblage of data; inclusions**

Sec. 9. If a commission believes that the redevelopment and economic development of an area located within its jurisdiction may require the establishment of a district under this chapter before January 1, 1989, the commission shall cause to be assembled data sufficient to make the determinations required under section 10 of this chapter, including the following:

- (1) Maps and plats showing the boundaries of the proposed district.
- (2) A complete list of street names and the range of street numbers of each street located within the proposed district.
- (3) A plan for the redevelopment and economic development of the proposed district.

*As added by P.L.84-1987, SEC.13. Amended by P.L.2-1989, SEC.39.*

#### **IC 36-7-15.2-10**

##### **Resolution; consideration of adoption; findings**

Sec. 10. (a) After compilation of the data required by section 9 of this chapter, the commission shall consider adopting a resolution declaring the area described under section 9 of this chapter a district under this chapter. The commission may adopt the resolution only after making the following findings:

- (1) That the district is entirely within a redevelopment district and has been previously designated as a blighted, deteriorated, or deteriorating area under IC 36-7-15.1 or that the district is being so designated concurrently with the adoption of the resolution.
- (2) That the completion of the redevelopment and economic development of the district will do all of the following:
  - (A) Attract new business enterprises to the district or retain or expand existing business enterprises in the district.
  - (B) Benefit the public health and welfare and be of public utility and benefit.
  - (C) Protect and increase state and local tax bases or revenues.
  - (D) Result in a substantial increase in temporary and permanent employment opportunities and private sector investment within the district.

(b) The commission may not adopt the resolution described in subsection (a) after January 1, 1989.

*As added by P.L.84-1987, SEC.13. Amended by P.L.5-1988, SEC.218; P.L.2-1989, SEC.40.*

#### **IC 36-7-15.2-11**

##### **Resolution; adoption; publication of notice; hearing**

Sec. 11. Upon adoption of a resolution designating a district under section 10 of this chapter, the commission shall publish (in accordance with IC 5-3-1) notice of the adoption and purport of the resolution and of the hearing to be held. The notice must provide a general description of the boundaries of the district and state that information concerning the district can be inspected at the commission's office. The notice must also name a date when the commission will hold a hearing to receive and hear remonstrances and other testimony from persons interested in or affected by the establishment of the district. All persons affected in any manner by the hearing, including all persons or entities owning property or doing business in the district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and resolutions of the commission by the notice given under this section.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-12**

##### **Hearing; consideration of written remonstrances**

Sec. 12. At the hearing, which may be adjourned from time to time, the commission shall hear all persons interested in the proceedings and shall consider all written remonstrances that have been filed with the commission.

*As added by P.L.84-1987, SEC.13.*

#### **IC 36-7-15.2-13**

### **Final action by commission; appeal**

Sec. 13. After considering the evidence presented at the hearing, the commission shall take final action confirming, modifying and confirming, or rescinding the resolution. The action taken by the commission is final, except that an appeal may be taken under section 14 of this chapter.

*As added by P.L.84-1987, SEC.13.*

### **IC 36-7-15.2-14**

#### **Appeal by aggrieved person; bond; procedure**

Sec. 14. (a) A person who filed a written remonstrance with the commission under section 11 of this chapter and is aggrieved by the final action taken may, within ten (10) days after that final action, file an appeal in the office of the clerk of the circuit or superior court with a copy of the resolution of the commission and the person's remonstrance against that resolution.

(b) If an appeal is filed, the commission may petition that the appeal be dismissed unless the remonstrator posts a bond with a surety approved by the court payable to the commission for the payment of all damages and costs that may accrue by reason of the filing of the lawsuit if the commission prevails. A hearing on a petition to dismiss an appeal shall be conducted in the same manner as a hearing on a temporary injunction under IC 34-26. If at the hearing the court determines that the remonstrator cannot establish facts that would entitle the remonstrator to a temporary injunction, the court shall set the amount of the bond to be filed by the remonstrator in an amount found by the judge to cover all damages and costs that may accrue to the commission because of the appeal if the commission prevails. If no bond is filed by the remonstrator with sureties approved by the court within ten (10) days after the court's order is entered, the suit shall be dismissed, and no court has further jurisdiction of the appeal or any other lawsuit involving any issue that was or could have been raised on the appeal.

(c) The burden of proof in the appeal is on the remonstrator, and a change of venue from the county may not be granted.

(d) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. Notwithstanding any other law, the court shall decide the appeal based on the record and evidence before the commission, not by trial de novo, and may sustain the remonstrance only if it finds that the actions of the commission in adopting the resolution were arbitrary and capricious.

(e) The court may confirm the final action of the commission or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions. An appeal to the court of appeals or supreme court has priority over all other civil appeals.

(f) Either the remonstrator or the commission may appeal the court order to the Indiana supreme court within the ten (10) day period by notice of appeal on a statement of errors in the same manner as is

provided in a petition for mandate or prohibition. The supreme court may stay the lower court order pending its own decision, may set a bond to be filed by the remonstrator, may modify the order of the lower court, or may enter its order as the final order in a case.

*As added by P.L.84-1987, SEC.13. Amended by P.L.1-1998, SEC.208.*

### **IC 36-7-15.2-15**

#### **Approval of commission's determination to create district**

Sec. 15. The determination of the commission to create a district under this chapter must be approved by ordinance of the legislative body of the unit before the commission transmits its resolution to the Indiana development finance authority and the department of state revenue under section 16 of this chapter.

*As added by P.L.84-1987, SEC.13. Amended by P.L.11-1990, SEC.133.*

### **IC 36-7-15.2-16**

#### **Transmission to state department and authority; contents**

Sec. 16. Within thirty (30) days after the approval of the creation of the district by the unit under section 15 of this chapter, the commission shall transmit to the department of state revenue and the Indiana development finance authority the following:

- (1) A certified copy of the resolution designating the district.
- (2) A complete list of street names and the range of street numbers of each street located within the district.
- (3) Information concerning the proposed redevelopment and economic development of the district, which information may be modified from time to time after the initial filing.
- (4) A certificate by the presiding officer of the commission stating that the commission will pursue the implementation of the plan for the redevelopment and economic development of the district in an expeditious manner.

*As added by P.L.84-1987, SEC.13. Amended by P.L.11-1990, SEC.134.*